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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92032341
Party	Defendant MICHEL FARAH MICHEL FARAH ,
Correspondence Address	David M. Rogero David M. Rogero, P.A. 2600 Douglas Road, Suite 600 Coral Gables, FL 33134 UNITED STATES dmrogero@dmrpa.com
Submission	Motion to Suspend for Civil Action
Filer's Name	David M. Rogero
Filer's e-mail	dmrogero@dmrpa.com
Signature	/s/David M. Rogero/
Date	03/05/2007
Attachments	Second Supplement Motion to suspend 030507.pdf ( 3 pages )(17868 bytes ) Final judgment IBE 092606.pdf ( 2 pages )(32943 bytes ) Final Default Judgment.pdf ( 2 pages )(94109 bytes ) Motion entry permanent injunction 021307.pdf ( 4 pages )(19989 bytes ) Proposed permanent injunction 021307.pdf ( 2 pages )(14649 bytes )

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

PRAMIL S.R.L. (ESAPHARMA),	)	Cancellation No. 92032341
	)	Registration No. 2,447,970
Petitioner,	)	Mark: OMIC PLUS
	)	
v.	)	
	)	
MICHEL FARAH,	)	
	)	
Registrant.	)	
<hr style="width: 40%; margin-left: 0;"/>	)	

REGISTRANT'S SECOND SUPPLEMENT TO  
MOTION TO SUSPEND PROCEEDING

On May 13, 2006, Registrant Michel Farah filed his Motion to Suspend this proceeding, based upon the pendency of a civil action that involves the subject mark.(D.E. 43). On June 6, 2006, Registrant filed his First Supplement to the Motion to Suspend, reporting on pleadings filed by one of the defendants in the civil action, International Beauty Exchange, Inc. ("IBE"), the U.S. distributor for Petitioner. (D.E. 47). With the original motion and the first supplement to the motion, Mr. Farah provided copies of the pleadings in the civil action. The Board has not yet ruled on the Motion to Suspend.

Registrant now further supplements his motion to advise the Board of further developments in the civil action, which is pending in the U.S. District Court for the Southern District of Florida.

On September 7, 2006, Mr. Farah filed with the Court his settlement agreement reached with IBE. Under the terms of the settlement agreement, IBE agreed to withdraw its then-pending application to register the mark OMIC. IBE has in fact filed an express abandonment of

its application, Serial No. 76655210. Upon the parties' settlement, on September 26, 2006, the district court entered judgment as to the claims and counterclaims between Mr. Farah and IBE. A copy of the judgment is attached to this Second Supplement.

Due to the failure of Pramil, S.R.L. (Esapharma), the petitioner here, to respond to the civil action, a default was entered against it. Upon Mr. Farah's motion for entry of judgment after default, the district court entered a default judgment against Pramil on January 9, 2007, and referred the matter of the award of damages to the U.S. Magistrate Judge. A copy of the judgment is attached to this Second Supplement.

On February 13, 2007, Mr. Farah filed his motion asking the Court to enter a permanent injunction pursuant to the judgment entered against Pramil. A copy of the motion is attached to this Second Supplement. The motion remains pending, without opposition and without ruling by the Court.

Accordingly, the district court has entered rulings that have a significant bearing on the issues before the Board in this proceeding, and this proceeding should be suspended pending the final resolution of the civil action.

Respectfully submitted,

/s/David M. Rogero/  
David M. Rogero  
Fla. Bar No. 212172  
David M. Rogero, P.A.  
2600 Douglas Road, Suite 600  
Coral Gables, FL 33134  
Telephone: (305) 441-0200  
Fax: (305) 460-4099

Attorney for Registrant Michel Farah

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Second Supplement to Motion to Suspend Proceeding was sent by facsimile transmission and by first class mail with proper postage affixed, the 5th day of March, 2007, to the following counsel for petitioner:

Donald L. Dennison  
Dennison, Schultz, Dougherty  
1727 King Street, Suite 105  
Alexandria, VA 22314

/s/David M. Rogero/

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
Miami Division

Case Number: 06-20619-CIV-MORENO

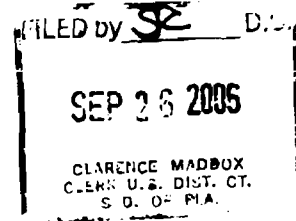
GAPARDIS HEALTH AND BEAUTY, INC.,

Plaintiff,

vs.

PRAMIL S.R.L. (ESAPHARMA) and  
INTERNATIONAL BEAUTY EXCHANGE  
INC.,

Defendants.



**FINAL JUDGMENT AS TO DEFENDANT INTERNATIONAL BEAUTY EXCHANGE,  
INC. ONLY**

This matter is before the Court upon the Joint Notice of Settlement and Joint Motion for Entry of Judgment signed by counsel of record for Plaintiff Gapardis Health and Beauty, Inc., and Defendant International Beauty Exchange, Inc. The Joint Motion is based upon the Agreement entered into by these parties and evidencing the settlement they have reached. The parties' Agreement is attached to the Joint Motion. The Court finds that this settling Defendant has agreed to the entry of Final Judgment.

Accordingly, it is **ORDERED AND ADJUDGED** that:

1. The parties' Agreement is **APPROVED**, and the Plaintiff and the settling Defendant are ordered to comply with it.
2. The parties' Joint Motion for Entry of Judgment is **GRANTED**. Final Judgment, pursuant to Fed. R. Civ. P. 54(b), is hereby entered as follows: the claims asserted by Plaintiff against Defendant International Beauty Exchange, Inc., are hereby dismissed; the counterclaims asserted by

Defendant International Beauty Exchange, Inc., against Plaintiff are hereby dismissed; as between Plaintiff and Defendant International Beauty Exchange, Inc., each party shall bear its own fees and costs. The Court expressly finds that there is no just reason for delay in entering this Final Judgment as to only the settling Defendant.

3. The Court shall retain jurisdiction for purposes of enforcement of the parties' Settlement Agreement.

4. The Court also retains jurisdiction to adjudicate the claims that remain with respect to Defendant Pramil S.R.L. (Espharma).

DONE AND ORDERED in Chambers at Miami, Florida, this 25 day of September, 2006.

  
FEDERICO A. MORENO  
UNITED STATES DISTRICT JUDGE

Copies provided to:

David M. Rogero, Esq.

Gregory J. Prusak, Esq.  
Diego F. Bobadilla, Esq.

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
Miami Division

**Case Number: 06-20619-CIV-MORENO**

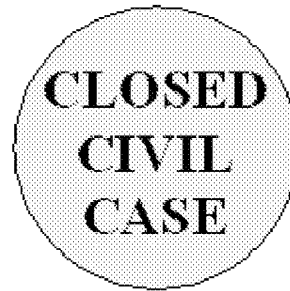
GAPARDIS HEALTH AND BEAUTY, INC.,

Plaintiff,

vs.

PRAMIL S.R.L. (ESAPHARMA) and  
INTERNATIONAL BEAUTY EXCHANGE.  
INC.,

Defendant.



**DEFAULT FINAL JUDGMENT AS TO DEFENDANT PRAMIL S.R.L. (ESPHARMA)**  
**AND ORDER OF REFERENCE TO MAGISTRATE JUDGE FOR**  
**DETERMINATION OF DAMAGES**

THIS CAUSE came before the Court upon Plaintiff's Motion for Entry of Judgment After Default Against Defendant Pramil S.R.L. (Espharma) (**D.E. No. 34**), filed on **December 6, 2006**.

THE COURT has considered the motion and the pertinent portions of the record, and is otherwise fully advised in the premises. A default has been entered against Defendant **Pramil S.R.L. (Espharma)** for failure to answer or otherwise plead to the Summons and Complaint served by Plaintiff. Counsel for Plaintiff filed an Affidavit with the Court as to the amount due from Defendant **Pramil S.R.L. (Espharma)**. Accordingly, it is

**ADJUDGED** that the Motion for Default Final Judgment is **GRANTED**. Judgment is hereby entered in favor of Plaintiff GAPARDIS HEALTH AND BEAUTY, INC. and against Defendant PRAMIL S.R.L. (ESAPHARMA) and INTERNATIONAL BEAUTY EXCHANGE. INC.. This Cause is **DISMISSED** with prejudice with each party bearing its own fees and costs. Fed.R.Civ.P.

41(a)(1)(ii). Further, all pending motions are DENIED as MOOT with leave to renew if appropriate

It is further

**ADJUDGED** that, pursuant to 28 U.S.C. § 636 and the Magistrate Judge Rules of the United States District Court for the Southern District of Florida, the above-captioned action is referred to **United States Magistrate Judge Andrea M. Simonton** to take all necessary and proper action as required by law, **with respect to the issue of damages**. Pursuant to Magistrate Judge Rule 1(C), the Magistrate Judge need not submit a Report and Recommendation to this Court for disposition of non-dispositive motions which have been referred.

It shall be the responsibility of the respective parties in this case to note on all motions and submissions pertaining to the referenced matters the name of the assigned Magistrate Judge Andrea M. Simonton. An additional courtesy copy of all materials necessary to the resolution of the referred matters shall be directed to the Magistrate Judge Simonton's Chambers.

DONE AND ORDERED in Chambers at Miami, Florida, this 9th day of January, 2007.



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FEDERICO A. MORENO  
UNITED STATES DISTRICT JUDGE

Copies provided to:

Counsel of Record

U.S. Magistrate Judge Andrea M. Simonton



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 06-20619-Civ-Moreno

GAPARDIS HEALTH AND BEAUTY, )  
INC., )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
PRAMIL S.R.L. (ESAPHARMA) and )  
INTERNATIONAL BEAUTY )  
EXCHANGE, INC. )  
 )  
Defendants. )

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PLAINTIFF’S MOTION FOR ENTRY OF PERMANENT INJUNCTION  
AGAINST DEFENDANT PRAMIL S.R.L. (ESAPHARMA)

Plaintiff, Gapardis Health & Beauty, Inc., (herein “Mitchell Group”) moves this Court for entry of a permanent injunction, pursuant to the default judgment entered against Defendant Pramil S.R.L. (Esapharma) (herein “Esapharma”) (D.E. 43).

This is an action for relief under the Lanham Act, 15 U.S.C. §§ 1051 et seq., and under Florida common law for Esapharma’s trademark infringements and counterfeiting. In its complaint (D.E. 1), and in its motion for entry of judgment after default (D.E. 34), Plaintiff sought the entry of a permanent injunction prohibiting the defendant from continuing its infringing and counterfeiting conduct. The Court’s Final Default Judgment, however, referred the matter of damages to the Magistrate Judge, but did not enter the requested injunctive relief.

As stated in Plaintiff’s motion, Section 34 of the Lanham Act, 15 U.S.C. § 1116, provides for the entry of injunctive relief to prevent continued infringement. *World Triathlon Corp. v.*

*Zefal, Inc.*, 2006 U.S. Dist. LEXIS 36878, 8-9 (S.D. Fla. 2006) (citing *PetMed Express, Inc. v. MedPets.com, Inc.*, 336 F. Supp.2d 1213, 1223 (S.D. Fla. 2004)). The entry of injunctive relief in this case is essential in order to prevent continued harm and damages to Plaintiff. By its default, defendant Esapharma has admitted the well-pled allegations of the complaint, and the declaration filed by the Plaintiff with its motion fully supports the entry of a permanent injunction. (D.E. 34 – 42).

Accordingly, Plaintiff requests entry of a permanent injunction. A suggested order form is filed with this motion.

Dated: February 13, 2007.

Respectfully submitted,

//s/David M. Rogero/

David M. Rogero (FL Bar No. 212172)

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Coral Gables, Florida 33134-6100

Phone: (305) 441-0200

Fax: (305) 460-4099

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2007, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/David M. Rogero

SERVICE LIST

Gapardis Health and Beauty, Inc. v. Pramil S.R.L., et al.

Case No: 06- 20619-CIV-MORENO

United States District Court, Southern District of Florida

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Attorneys for Defendant International Beauty Exchange, Inc.

By CM/ECF

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Attorneys for Defendant International Beauty Exchange, Inc.

By CM/ECF

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 06-20619-Civ-Moreno

GAPARDIS HEALTH AND BEAUTY, )  
INC., )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
PRAMIL S.R.L. (ESAPHARMA) and )  
INTERNATIONAL BEAUTY )  
EXCHANGE, INC. )  
 )  
Defendants. )

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PERMANENT INJUNCTION AGAINST  
DEFENDANT PRAMIL S.R.L. (ESAPHARMA)

This cause came before the Court upon Plaintiff's Motion for Entry of Permanent Injunction against Defendant Pramil S.R.L. (Esapharma). The Court finds that a Default Final Judgment was entered against the Defendant (D.E. 43) and finds that Plaintiff is entitled to the entry of a permanent injunction.

Accordingly, it is ORDERED and ADJUDGED that the Defendant Pramil S.R.L. (Esapharma), and those persons or entities in active concert or participation with it, are permanently enjoined:

- (i) From using the trademarks OMIC PLUS and REGGE LEMON or reproductions, or copies thereof;
- (ii) From possessing, receiving, manufacturing, assembling, distributing, warehousing, shipping, transshipping, transferring, storing, advertising, promoting, offering, selling, offering or holding for sale, disposing, or in any other

manner handling or dealing with any goods, packaging, wrappers, containers and receptacles, bearing the trademarks OMIC PLUS and REGGE LEMON or reproductions, or copies thereof;

(iii) From infringing the trademarks OMIC PLUS and REGGE LEMON;

(iv) From using any reproduction, or counterfeit, or copy or colorable imitation of the Plaintiff's trademarks in connection with publicity, promotion, sale or advertising of goods sold by Defendant, including, without limitation, health and beauty products bearing a copy or colorable imitation of the Plaintiff's trademarks;

(v) From affixing, applying, annexing or using in connection with goods manufactured, sold or distributed by Defendant, any words or other symbols making a false description or representation describing such goods as being those of Plaintiff, and from offering such goods in commerce;

(vi) From using any trademark or trade dress as defined above in connection with the manufacture, sale or distribution of any goods which falsely represent such goods as being connected with, approved by or sponsored by Plaintiff;

It is further ORDERED that this Court shall retain jurisdiction of the parties for purposes of enforcement of the Permanent Injunction.

Done and Ordered at Miami, Florida, this \_\_\_\_\_ day of February, 2007.

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FEDERICO A. MORENO  
UNITED STATES DISTRICT JUDGE